



CITY OF MOUNTAIN VIEW

Office of the City Attorney • 500 Castro Street • P.O. Box 7540 • Mountain View, California 94039-7540
650.903.6303 • FAX 650.967.4215

November 9, 2006

VIA FACSIMILE

Liane Randolph, Chair
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: Discussion of Amendments to "Public Generally" Exception to the Conflict-of-Interest Provisions – Regulation 18707.1, and Adoption of Regulation 18707.10

Dear Chair Randolph:

This letter is written on behalf of the League of California Cities, City Attorney's Division, FPPC Committee. The Committee has reviewed the above-referenced agenda item along with JoAnne Speers, Executive Director of the League's Ethics Institute. The Committee would like to submit the following for the Commission's consideration.

On Decision Point #1, the Committee would like to urge the Commission's consideration of the use of the words "residential properties" rather than "residential property owners." As was discussed at Interested Persons meetings, any piece of property can have multiple owners and tying the analysis to the effect on the property rather than on the property owners would be preferable. While admittedly imprecise on a particular owner's "bottom line," it is impossible for agency staff to determine and compare owners/ownership interests relative to the hundreds of properties which comprise the 10% or greater standard.

Regulation 18707.10 Public Generally. Small Jurisdiction: Effects on Official's Domicile

First off, the Committee truly appreciates the amount of effort which went into this draft regulation by Commission staff. The Commission has heard repeatedly from small jurisdictions, however, at the last Commission meeting the small jurisdictions were not represented. Part of the challenge facing small jurisdictions is that they typically do not have full time legal representation and rarely have in-house city attorneys staffs. Therefore, while the concern is important, it is often difficult to speak with a continuous and concerted voice.

Liane Randolph, Chair

November 9, 2006

Page 2

Nevertheless, the effects of the 500 foot rule on small jurisdictions has been significant and continually places them in a situation where they have less than a full complement of council members and planning commissions voting on important community items. Alternatively, they find themselves resorting to the legally required participation option of Step 8. The FPPC Committee believes there is a better approach to community participation than either of those two alternatives.

With respect to the draft regulation, the League's FPPC Committee does not know if this is a perfect solution, however, supports its implementation at this time. While there may be a better mousetrap out there, we cannot know that without testing it in the multiple and varied situations presented by small jurisdictions.

We would also recommend that the Commission consider adopting this regulation with direction to Commission staff to conduct an Interested Persons meeting in the future, perhaps two years from adoption to solicit information from small jurisdictions as to whether or not the new regulation has been usable and whether or not it has been effective. We believe that the inclusion within this regulation of the proposed 300-foot boundary will be critical during that trial period.

We do not believe that adopting and testing the section is like jumping into the deep-end of the pool and not knowing how to swim. The draft regulation is well crafted and we all have experience in this area. Therefore, all of us, including the public, will be watching the "swimmers" to make sure they stay out of trouble.

Finally, within Decision Point #5 there is concern about subsection 6's use of the words "similar in value." The preference would be to put a period after the word "decision" in that sentence. This makes the analysis similar to that in Decision Point #1, which is "is the decision affecting the property in the same way?" An alternative would be to add language referring to the number of properties within the 500-foot radius to subsection 4.

Thank you again for all the hard work that went into these draft regulations. We plan to be present at the Commission's meeting on November 14th and look forward to answering any questions you may have with respect to our advice and input.

Sincerely,



Michael D. Martello
City Attorney

cc: FPPC Committee, JoAnne Speers